

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



**FILED**  
9-02-14  
03:01 PM

Order Instituting Rulemaking on the Commission's Own Motion into Addressing the Commission's Water Action Plan Objective of Setting Rates that Balance Investment, Conservation, and Affordability for the Multi-District Water Utilities of: California-American Water Company (U210W), California Water Service Company (U60W), Del Oro Water Company, Inc. (U61W), Golden State Water Company (U133W), and San Gabriel Water Company (U337W).

Rulemaking 11-11-008  
(Filed November 10, 2011)

**COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES  
ON PRESIDENT MICHAEL PEEVEY'S ALTERNATE PROPOSED DECISION**

**TONY TULLY**

Analyst for the Office of Ratepayer Advocates

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Tel: (415) 703-1559  
Email: [tony.tully@cpuc.ca.gov](mailto:tony.tully@cpuc.ca.gov)

**SELINA SHEK**

Attorney for the Office of Ratepayer Advocates

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-2423  
Fax: (415) 703-2262  
Email: [selina.shek@cpuc.ca.gov](mailto:selina.shek@cpuc.ca.gov)

September 2, 2014

## **TABLE OF CONTENTS**

	<u>PAGE</u>
I. INTRODUCTION.....	1
II. IT IS LEGAL ERROR FOR THE APD TO ELIMINATE THE GUIDELINES SINCE IT IS OUT OF THE SCOPE OF THE PROCEEDING .....	1
III. IT IS FACTUAL ERROR FOR THE APD TO STATE THE RECORD DEMONSTRATES GUIDELINES ARE NO LONGER RELEVANT AND ARE COUNTER TO ADVANCING THE WATER ACTION PLAN’S (“WAP”) OBJECTIVES .....	2
IV. IT IS FACTUAL ERROR FOR THE APD TO STATE THAT THE GUIDELINES ARE A FALLBACK FOR THE UTILITIES .....	4
V. IT IS FACTUAL ERROR AND A LOGICAL FALLACY FOR THE APD TO ARGUE SINCE ELECTRIC AND TELECOMMUNICATIONS UTILITIES ARE VERY DIFFERENT FROM WATER UTILITIES THAT THEY SHOULD BE TREATED SIMILARLY WITH POSTAGE STAMP RATES .....	4
VI. CONCLUSION .....	5

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion into Addressing the Commission's Water Action Plan Objective of Setting Rates that Balance Investment, Conservation, and Affordability for the Multi-District Water Utilities of: California-American Water Company (U210W), California Water Service Company (U60W), Del Oro Water Company, Inc. (U61W), Golden State Water Company (U133W), and San Gabriel Water Company (U337W).

Rulemaking 11-11-008  
(Filed November 10, 2011)

**COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES  
ON PRESIDENT MICHAEL PEEVEY'S ALTERNATE PROPOSED DECISION**

**I. INTRODUCTION**

Pursuant to Rule 14.3 of the California Public Utilities Commission's Rules of Practice and Procedure, the Office of Ratepayer Advocates ("ORA"), submits these comments on President Michael Peevey's Alternate Proposed Decision ("APD") in the Order Instituting Rulemaking on the Commission's Own Motion into Addressing the Commission's Water Action Plan Objective of Setting Rates that Balance Investment, Conservation, and Affordability.

**II. IT IS LEGAL ERROR FOR THE APD TO ELIMINATE THE GUIDELINES SINCE IT IS OUT OF THE SCOPE OF THE PROCEEDING**

On June 20, 2012, it was ruled in the Assigned Commissioner's Scoping Memo and Ruling that the scope of the rulemaking was to "consider adopting new or revised guidelines for consolidation of districts."<sup>1</sup> The APD proposal to eliminate the guidelines in their entirety is outside of the scope of this proceeding and should be rejected. The Assigned Commissioners Scoping Memo and Ruling states:

---

<sup>1</sup> The Assigned Commissioners Scoping Memo and Ruling, dated June 20, 2012, Section 4, page 3-4.

The scope of this rulemaking is to consider adopting new or revised guidelines for consolidation of districts, some variation of a high cost fund within multi-district utilities, and another mechanism or a combination of them as a means to advance the Commission's water action plan objective of setting rates that balance investment, conservation, and affordability. Inter-company mechanisms will not be explored in this proceeding. Any consideration of mechanisms in addition to consolidation guidelines and a High Cost variant will be informed and bounded by the analysis in this proceeding's workshops, data requests and responses, comments and reply comments, and other information submitted in the record of this proceeding.<sup>2</sup>

A majority of the parties agreed in the workshops and in Comments on the original PD that the guidelines are still relevant.<sup>3</sup> The option to “Eliminate the guidelines in their entirety and signal that the Commission is open to consolidation requests that balance investment, conservation and affordability” appeared in the Staff Report only after all the workshops had concluded and comments on the workshops had been received.<sup>4</sup> Since the possibility of eliminating the guidelines in their entirety was never addressed in workshops nor within the scope of the proceeding, no opportunity was provided for the potential consequences of such a sweeping recommendation be considered and discussed amongst parties.

### **III. IT IS FACTUAL ERROR FOR THE APD TO STATE THE RECORD DEMONSTRATES GUIDELINES ARE NO LONGER RELEVANT AND ARE COUNTER TO ADVANCING THE WATER ACTION PLAN’S (“WAP”) OBJECTIVES**

Contrary to the original findings from the workshops and conclusions noted in the original PD, the APD erroneously determines that the Guidelines “are no longer relevant” with only the following cursory statement:

The record continues to support consolidation and persuades us that the guidelines developed in 1992 by the then-DRA and the Class A water utilities, titled, “1992 Guidelines for *Combining Water Utility Districts for Ratemaking and Public Utilities*

---

<sup>2</sup> The Assigned Commissioners Scoping Memo and Ruling, dated June 20, 2012, Section 4, page 3-4, states

<sup>3</sup> In the Comments filed June 16, 2013 by parties including Cal Am, GSWC, Cal Water, TURN, County of the Lake, California Water Association and ORA, only Cal Am and GSWC proposed eliminating the guidelines.

<sup>4</sup> Report on Balanced Rate Rulemaking by the Division of Water and Audits, dated January 30, 2014, page 2. Comments on the Draft Report filed by parties August 23, 2013.

*Commission Reporting Purposes*,” are no longer relevant and can be used by parties to argue against consolidation request, ironically in cases where consolidation makes the most sense; *e.g.* areas that have high water rates, areas that have vulnerable water supplies, etc.

The APD provides no justification or reference to any specific fact or example that the 1992 Guidelines have not contributed to the objectives of the WAP nor that high rates or vulnerable water supplies could be resolved by eliminating the 1992 Guidelines. Although the APD points to three Decisions in which the 1992 Guidelines were relied upon in district consolidation applications, interestingly enough, those three Decisions are perfect examples of why the guidelines are still relevant to responsible decision making. The following are the three Decisions referenced in the APD along with the actual results:

- Decision (D.) 05-09-004 denied California American Water Company’s (“Cal Am”) request to consolidate rates for its Monterey and Felton districts. In striking down Cal Am’s request to consolidate Felton with Monterey, the Decision likely prevented Cal Am from having Felton residents subsidize Monterey’s \$400 million dollar infrastructure costs that had no foreseeable benefit to Felton customers.
- D.08-05-018 denied Cal Am’s request to consolidate rates for its Larkfield and Sacramento districts. If Cal Am’s multiple requests to consolidate the Sacramento and Larkfield districts were to have been approved, the results would have likely had the lower income customers of Sacramento subsidizing the rates of the affluent Larkfield district where rates were high, but not necessarily unaffordable.
- D.10-12-017, as modified in other respects by D.11-08-010, approved the merger of CWS’s South San Francisco and Mid-Peninsula Districts to form the Bayshore District. This was a good example of a consolidation that fit the Guidelines (proximity, rate comparability, water supply and operation) and provided an opportunity for benefits (ie, shared operations and water supplies) that balance investment, conservation and affordability for ratepayers of both districts.

ORA agrees with the original PD which states:

The record continues to support consolidation, in various forms, as well, but does not persuade us there is need to develop a prescriptive revision of the guidelines developed in 1992 by the then-DRA and the Class A water utilities, titled, “*1992 Guidelines for Combining Water Utility Districts for Rate-making and Public Utilities Commission Reporting Purposes*.”<sup>5</sup>

---

<sup>5</sup> Decision Providing Further Guidance Following Release of Staff Report, dated May 27, 2014, Page 7-8.

In addition to meeting the sixth objective of the WAP, the Guidelines also address the fifth object of the WAP of Streamlining CPUC regulatory decision making. As noted in the 1992 Guidelines forwarding letter, the Guidelines were created “in an effort to decrease the work load associated with the large number of rate cases each year.” Eliminating the Guidelines in their entirety could create an administrative burden that would be counter to the fifth objective of the WAP to streamline regulatory decision making.

**IV. IT IS FACTUAL ERROR FOR THE APD TO STATE THAT THE GUIDELINES ARE A FALLBACK FOR THE UTILITIES**

The APD states on page 8:

We agree with the DWA staff report (Attachment A, at p. 19) which states that “...the existing guidelines become a convenient “fall-back” position for utilities, parties and the Commission alike.” We are persuaded to eliminate the guidelines in their entirety and signal that the Commission is open to consolidation requests that balance investment, conservation and affordability.

The APD added this language, but the added language implies that any and all consolidation will bring balanced investment, conservation and affordability, but provides no justification or support that can back this claim. In fact, nowhere does the APD make a claim that balanced investment, conservation and affordability are not achieved with the current use of the Guidelines.

In addition, the statement that the Guidelines are considered a “fall-back” position to utilities, parties or the Commission comes without justification. The Guidelines have always been used as intended—to provide guidance in evaluating a consolidation proposal. In fact, no Utility has ever used the Guidelines as a defense against consolidation. Utilities, however, have used the guidelines to successfully support consolidation.<sup>6</sup>

**V. IT IS FACTUAL ERROR AND A LOGICAL FALLACY FOR THE APD TO ARGUE SINCE ELECTRIC AND TELECOMMUNICATIONS UTILITIES ARE VERY DIFFERENT FROM WATER UTILITIES THAT THEY SHOULD BE TREATED SIMILARILY WITH POSTAGE STAMP RATES**

The APD states under Finding of Fact #1:

Supply and distribution costs for different water utilities and for different districts within multi-district water utilities vary

---

<sup>6</sup> D.11-08-010 approved the merger of CWS’s South San Francisco and Mid-Peninsula Districts.

significantly, based on the different costs linked to local or imported water sources, water quality protection and contamination remediation, infrastructure needs, etc. This cost variability among water utilities contrasts markedly to the comparative uniformity across electric utilities, which operate with statewide “postage stamp” rates.

The above statement from the APD actually supports the argument that the economic fundamentals of electricity and telecommunications industries are very different from those of water, and that postage stamp rates may **not** be universally appropriate for all. It is beyond perplexing that the APD incorporates this Finding of Fact to conclude that water utilities should embrace postage stamp rates like the energy and telecommunications industries that it simultaneously determines to be operating under different economic realities. This point was specifically addressed in the workshops and was noted in the draft workshop report:

Water utilities do not enjoy economies of scale and cost efficiencies akin to those enjoyed by communication or energy service providers that have interconnected systems that permit easy movement of voice/data traffic or electricity to customers. If water rates do not reflect the true cost of service, they could encourage inefficient and unsustainable uses of water in high-cost areas like promoting housing developments in the desert.<sup>7</sup>

## **VI. CONCLUSION**

For the all the reasons provided above. ORA recommends the Commission adopt the Assigned Commissioner’s Proposed Decision in this proceeding.

Respectfully submitted,

/s/ SELINA SHEK

---

Selina Shek

Attorney for the Office of Ratepayer Advocates

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-2423  
Fax: (415) 703-2262

September 2, 2014

---

<sup>7</sup> CPUC Division of Water and Audits, Draft Report on Balance Rate Rulemaking, dated July 12, 2013, page 19.